

TERMINAL DISCLAIMER TO OBViate A DOUBLE PATENTING
REJECTION OVER "PRIOR" PATENTS

Docket Number:
MVA1001USC8

In re Application of: Rudy Mazzocchi et al.

Application No.: 10/607,328

Filed: June 26, 2003

For: METHOD AND DEVICE FOR FILTERING BODY FLUID

The owner*, ev3 Inc., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term **prior patent Nos.: 6,605,102 B1 issued August 12, 2003; 6,712,835 B2 issued March 30, 2004; 6,989,019 B2 issued January 24, 2006; 6,949,103 B2 issued September 27, 2005; 7,048,752 B2 issued May 23, 2006; 7,033,375 B2 issued April 25, 2006; 7,367,985 B2 issued May 6, 2008; 7,367,986 B2 issued May 6, 2008; 7,371,250 B2 issued May 13, 2008; 7,404,820 B2 issued July 29, 2008; 7,410,492 B2 issued August 12, 2008; and 7,442,200 B2 issued October 28, 2008 as the term of said prior patents are defined in 35 U.S.C. 154 and 173, and as the term of said **prior patents** are presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the **prior patents** are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.**

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the **prior patents**, "as the term of said **prior patents** are presently shortened by any terminal disclaimer," in the event that one or more of said **prior patents** later:

expires for failure to pay a maintenance fee; is held unenforceable;
is found invalid by a court of competent jurisdiction;
is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;
has all claims canceled by a reexamination certificate;
is reissued; or
is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1. For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. The undersigned is an attorney or agent of record. Reg. No. 33,984

/Patrick J. O'Connell/
Signature

December 18, 2008
Date

Patrick J. O'Connell
Typed or printed name

(612) 334-8989
Telephone Number

Terminal disclaimer fee under 37 CFR 1.20(d) included.

* Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner). Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

